

1 THE WITNESS: No.

2 JUDGE STEINBERG: Either before or after '91?

3 THE WITNESS: No. I mean, he never went out and  
4 made sales or did anything like that, no. He might make the  
5 comment, "How come we don't have so and so on the air when,  
6 you know, they are over there? They are on a competitor  
7 station."

8 JUDGE STEINBERG: Did Mr. Rice before April '91  
9 sign any contracts, advertising contracts, on behalf of the  
10 station?

11 And Mr. Zauner talked about leases, and there is  
12 evidence that you signed a couple leases.

13 THE WITNESS: Yes.

14 JUDGE STEINBERG: Okay, so Mr. Rice did sign like  
15 advertising contracts?

16 THE WITNESS: Right. I mean, the building where  
17 we were when I went to work for him, we stayed in there --  
18 he had signed that original lease. I mean, him or his  
19 father, one, I don't remember which. But they were in that  
20 building when I went to work, and then we moved out again.

21 JUDGE STEINBERG: Did he sign any of these types  
22 of contracts after April '91?

23 THE WITNESS: No.

24 Now, wait, when you said a contract, he may have  
25 signed -- if we applied to buy equipment somewhere, and you

1 had to fill out a credit application, and they required that  
2 the president sign that as a personal guarantee, yes, he  
3 would have signed that.

4 But usually I would say, "Well, if that's the  
5 case, there is 10 other equipment suppliers. Forget them."

6 JUDGE STEINBERG: Okay, before April of '91, about  
7 how much time did Mr. Rice spend at the stations, at the  
8 Licensee stations, if you can estimate or if you know?

9 THE WITNESS: Well, I don't really know because  
10 lots of times he would go to the stations. He might drive  
11 there at night, or he might go there over the weekend.  
12 Because if he was going, it was usually to do something  
13 technical, and that's normally when you do it, not when  
14 everybody is in the place or things like that.

15 And prior to '91, you know, he might come in the  
16 office on a Wednesday, and I hadn't heard from him for three  
17 or four days, and he would say, "Well, you know, I was in  
18 Columbia over the weekend, and who does the maintenance work  
19 up there? The grass needs to be mowed."

20 So, you know, I -- that's the best I can answer.

21 JUDGE STEINBERG: Did that change after April '91?

22 THE WITNESS: No, because after that period of  
23 time, like I said, I think Mike had so many other things on  
24 his mind that --

25 JUDGE STEINBERG: So is it far to say he spent

1 less time doing that stuff --

2 THE WITNESS: Yes.

3 JUDGE STEINBERG: -- after April '91?

4 THE WITNESS: Much less. But then once he went,  
5 as I said earlier on that one exhibit, once he went to  
6 prison what does he have to think about?

7 JUDGE STEINBERG: Getting out, I guess.

8 THE WITNESS: Um-hmm.

9 JUDGE STEINBERG: Is it fair to say that before,  
10 and if this is not -- this is my characterization. If the  
11 witness thinks it's fair to say that, you can agree with me.  
12 If you don't, you can disagree with me.

13 Is it fair to say that Mr. Rice before April '91  
14 was really not a hand's on manager or a hand's on  
15 pulicymaker --

16 THE WITNESS: That's right.

17 JUDGE STEINBERG: -- at the station?

18 THE WITNESS: That's right.

19 JUDGE STEINBERG: And then after '91, he still  
20 wasn't a hand's on?

21 THE WITNESS: It became even less, and even after  
22 '91, I guess you could say I didn't even pay as much  
23 attention to the input after that length of time because of  
24 all the extenuating circumstances.

25 JUDGE STEINBERG: Okay, I guess we can go to

1 redirect now.

2 MR. GAFFNEY: Just very briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. GAFFNEY:

5 Q Some questions were asked about the termination of  
6 Mr. Hanks.

7 A Um-hmm

8 Q And who was it that made the decision to terminate  
9 Mr. Hanks?

10 A Richard Hauschild and myself.

11 Q Okay. And you also mentioned that Mr. Hanks had  
12 some health problems?

13 A That is correct.

14 Q You didn't fire Mr. Hanks because he had health  
15 problems, did you?

16 A No. He didn't do his job.

17 MR. GAFFNEY: Could I have one minute, Your Honor?

18 JUDGE STEINBERG: Sure.

19 (Pause )

20 MR. GAFFNEY: Nothing further of this witness,  
21 Your Honor.

22 JUDGE STEINBERG: Any recross?

23 MR. ZAUNER: No, Your Honor.

24 JUDGE STEINBERG: Okay, you are excused. And  
25 thank you very much for testifying.

1 THE WITNESS: Okay, good.

2 JUDGE STEINBERG: I have just a question. If  
3 there is a possibility that Ms. Cox will be returning to the  
4 witness stand, then the sequestration order still applies.  
5 You might want to put her on as a surrebuttal witness or  
6 something.

7 MR. GAFFNEY: I appreciate that.

8 JUDGE STEINBERG: If you are not going to -- of  
9 course, if Mr. Hanks is presented on rebuttal, then maybe  
10 somebody will be surrebuttaling him after you, if  
11 surrebuttaling is a word.

12 So I think it would be better to keep you under  
13 the sequestration order until that's all finished with.

14 THE WITNESS: Okay, what does that exactly mean?

15 JUDGE STEINBERG: Don't talk to anybody about your  
16 testimony.

17 THE WITNESS: Oh, okay.

18 JUDGE STEINBERG: I guess you can talk to your  
19 husband because -- you can talk to your attorneys, of  
20 course.

21 THE WITNESS: Okay.

22 JUDGE STEINBERG: And you can talk to your husband  
23 about the property you leased from him.

24 Do you understand?

25 THE WITNESS: Yeah, I may talk to my husband,

1 right.

2 JUDGE STEINBERG: You don't talk to other people  
3 at the Licensee about testimony or --

4 THE WITNESS: Any of the managers or anything of  
5 that nature, is that what you are saying?

6 JUDGE STEINBERG: Right.

7 THE WITNESS: Mum's the word.

8 JUDGE STEINBERG: Mum's the word until your  
9 attorneys tell you can de-mum.

10 MR. ZAUNER: Your Honor, does that go for Mr.  
11 Leatherman too?

12 JUDGE STEINBERG: Yes. If there is a possibility  
13 of you recalling Mr. Leatherman, the same thing applies.  
14 It's probably better to keep the sequestration order in  
15 effect. And I'm sorry I didn't get to tell him that, but I  
16 didn't think of it.

17 MR. GAFFNEY: We will inform him of that promptly,  
18 Your Honor.

19 JUDGE STEINBERG: Okay now, a couple of  
20 housekeeping things.

21 THE WITNESS: Okay.

22 JUDGE STEINBERG: Yes, you can be excused. Thank  
23 you very much.

24 THE WITNESS: Uh-huh.

25 (Witness excused.)

1 JUDGE STEINBERG: There are some things that I  
2 would like to review that I think we need in the record. We  
3 have got the information about the checks, I think.

4 Is everybody happy with that information?

5 MR. MASTANDO: We're satisfied, Your Honor.

6 JUDGE STEINBERG: Okay, the only thing, you know,  
7 it still bothers me that we don't have the universe of  
8 checks, and accurate numbers and stuff like that.

9 You might think about this, and that is, I notice  
10 from Bureau Exhibit 10 that the checks were numbered. And  
11 maybe you can -- maybe it would be easy to say, okay, this  
12 April 3, '91 at Contemporary Media we started off with this  
13 check number, and to the date of incarceration we ended up  
14 with this check number, and that way, you know, it just  
15 gives some indications as to how much checks there were.

16 You don't have to do that if you don't want to,  
17 but I -- something bothers me about just having a random  
18 sample.

19 The second thing you need to -- we need the June  
20 21, '91, Section 1.6 Lake station in the record.

21 The third thing I would like is I didn't know  
22 that Mr. Rice was paid a salary, and I want to know  
23 basically how much he was paid from April 3, '91 through the  
24 date of his incarceration, which I think is September 30,  
25 '94.

1           If you want to break it down, if it's the same  
2    thing every month and say he was paid this monthly the fine.  
3    But I think something like that ought to be in the record.  
4    I think I think it might be easy just to get the station's  
5    W-2s for '92, '93 and '94, and then figure out what it was  
6    in '91, because '92, '93 and '94 were whole years, at least  
7    up until his incarceration.

8           The date Mr. Rice entered the hospital is in the  
9    record, and that was April 3, '91; is that right?

10          MS. SADOWSKY: Correct.

11          JUDGE STEINBERG: Do we have the date in the  
12    record when he was released from the hospital?

13          MS. SADOWSKY: No.

14          MR. MASTANDO: No.

15          JUDGE STEINBERG: Okay, I think we need that.

16          MR. MASTANDO: And also he was hospitalized on  
17    several occasions, on a few occasions.

18          JUDGE STEINBERG: Was he hospitalized on more than  
19    one occasion?

20          MS. SADOWSKY: No, he was -- at least the April  
21    1991 hospitalization was extended through some time in  
22    October. I don't know of any other hospitalizations.

23          JUDGE STEINBERG: Just let's get the date that he  
24    was released from the hospital in the record. And I think  
25    we, you know, I asked you to provide the dates of employment

1 of Mr. Rhea.

2 And another thing that I noticed today was in  
3 Bureau Exhibit 1. Attachment 1, the second amended  
4 information, it doesn't appear to be dated. If we could get  
5 a date for that, because I'll tell you, one of the things  
6 that I didn't think of before was April '91, Mr. Rice was  
7 hospitalized.

8 When did all this stuff -- when did the -- you  
9 know, when did all this come up? It had to have come up  
10 like in early '91, 1990. In other words, we had Ms. Cox  
11 testify --

12 MS. SADOWSKY: The record does contain some  
13 documents that reflect that, Your Honor.

14 JUDGE STEINBERG: Okay.

15 MS. SADOWSKY: There are some 1.65 statements that  
16 reflect he was arrested first in August of 1990.

17 JUDGE STEINBERG: Okay.

18 MS. SADOWSKY: The he was arrested again in  
19 November of 1990 And he was not charged until April 1. He  
20 was formally charged on April 1, 1991.

21 JUDGE STEINBERG: All right, that's all reflected  
22 in the 1.65 statements?

23 MS. SADOWSKY: I believe so.

24 JUDGE STEINBERG: Because I think that impacts on  
25 some of her testimony was he was involved -- some of Ms.

1 Cox's testimony was that Mr. Rice was preoccupied with other  
2 things, and he didn't do this. And it appears to me like we  
3 had the second amended information. Now, there is probably  
4 first amended information, and there was probably an  
5 information or whatever. And if we get the whole -- I want  
6 to be able to put things in context. And, you know, the  
7 more dates to have the happier I will be.

8 MR. ZAUNER: Your Honor, page 37 and page 38 of  
9 Mass Media Bureau Exhibit 1, I think, have a lot of that  
10 information.

11 JUDGE STEINBERG: Okay.

12 MR. ZAUNER: Mr. Rice's arrested date, preliminary  
13 hearing on such a date, and then the hearing was such and  
14 such a date.

15 JUDGE STEINBERG: Okay.

16 MR. ZAUNER: The chronology is laid out.

17 JUDGE STEINBERG: Okay, cause I'm worried about  
18 writing a decision, or you guys writing findings and there  
19 being dates and time frame missing, and that becomes  
20 problematical from a practical standpoint.

21 MR. GAFFNEY: Your Honor, just for the record, to  
22 the extent that information is missing, and it's the  
23 Bureau's burden of proof --

24 JUDGE STEINBERG: I know.

25 MR. GAFFNEY: -- to provide it, we have standing

1 objections as to any further discovery in the case.

2 JUDGE STEINBERG: Well, it's the Bureau's --

3 MR. GAFFNEY: If this is in the nature of further  
4 discovery requests from the bench or --

5 JUDGE STEINBERG: Yeah, I will agree that it's the  
6 Bureau's burden, but then I have got my obligation which is  
7 to develop a full record. And just because they don't do it  
8 doesn't mean that I can't do it, and I think it's my duty to  
9 do it. If I see pieces missing, I would be derelict in my  
10 duty if I didn't try to go after them.

11 And I understand what your position is, and I  
12 can't disagree with it, but I can overrule it.

13 MR. GAFFNEY: I understand that, Your Honor. But  
14 just to make the record clear --

15 JUDGE STEINBERG: Right.

16 MR. GAFFNEY: -- for purposes, is this a request  
17 at this date for further discovery from the Licensees?

18 JUDGE STEINBERG: NO, no, no. I just want you to  
19 get the dates and put them in the record. You know, you --

20 MR. GAFFNEY: In our direct case, Your Honor?

21 JUDGE STEINBERG: No, no, no.

22 MR. GAFFNEY: Or in the Bureau's case?

23 JUDGE STEINBERG: What you can come in here with  
24 is, you know, the statement pursuant to Section 1.65,  
25 somebody bring the thing in and introduce it into evidence.

1 I don't care. If the Bureau wants to do it, they can do it.  
2 If you want to do it, you can do it. If not, bring it in  
3 and I will do it. I will make it Judge's Exhibit 1. I  
4 don't really care. I just think it has to be in there.

5 How much Mr. Rice was paid, you can say, "Look,  
6 Your Honor, we looked into it, and these are the numbers,  
7 and ask the Bureau, and will the Bureau stipulate to it.  
8 You know, ask the Bureau. Show them the documents if they  
9 want to see it, and you can stipulate this is how much he  
10 was paid in these years; dates of his hospitalization. You  
11 know, you can say, "Your Honor, pursuant to your request,  
12 this is the information." It doesn't have to be in an  
13 exhibit. It can be orally. If you want to make it an  
14 exhibit, you know, then we have it written down. I don't  
15 think it's any big deal.

16 MR. ZAUNER: You are not really assisting the  
17 Bureau's direct case, what you are doing is you are  
18 providing answers that this witness was unable to provide or  
19 that --

20 JUDGE STEINBERG: Well, answers that I want to  
21 know.

22 MR. MASTANDO: Or judicial notice of other  
23 proceedings.

24 JUDGE STEINBERG: No, I just want the information  
25 in, and I don't care how it comes in.

1 MR. GAFFNEY: I realize that, Your Honor, And  
2 believe me, respectfully, I just want to know by what -- for  
3 the record, it's not the logistics of getting it back and  
4 forth.

5 Is the request that we provide the information in  
6 the nature of a discovery request?

7 JUDGE STEINBERG: No. it's just I want the  
8 information, that's all. It's not discovery. It's just I  
9 want the information. And however it gets in, it gets in.

10 If you want to make it part of your direct case, I  
11 don't think you want to do that.

12 MR. GAFFNEY: Well, we wouldn't have the burden of  
13 proof in the case.

14 JUDGE STEINBERG: Right.

15 MR. GAFFNEY: So that wouldn't make sense.

16 JUDGE STEINBERG: Well, you know, you didn't have  
17 to put in a direct case anyway if you didn't want to.

18 MR. GAFFNEY: Also correct.

19 JUDGE STEINBERG: But I just want the information,  
20 and I don't think it's any big deal. But then, you know, I  
21 fully understand your position.

22 What I think we ought to do is -- we have the --  
23 let me ask Mr. Zauner. Are you going to put on Mr. Hanks as  
24 a rebuttal witness?

25 MR. ZAUNER: Yes, Your Honor, that's our

1 intention.

2 JUDGE STEINBERG: Okay. Now, we need to know  
3 when, I guess when he's going to be deposed so that we know  
4 when we are going to have the rebuttal session. And you  
5 don't know that yet?

6 MR. ZAUNER: Your Honor, after hearing the  
7 testimony today, we also intend at this point to call Mr.  
8 Rhea as a rebuttal witness.

9 JUDGE STEINBERG: Okay. So we have got Hanks and  
10 Rhea.

11 MR. ZAUNER: Rhea is spelled R-H-E-A, if you need  
12 it.

13 JUDGE STEINBERG: Okay. Well, then I have been  
14 spelling it all day.

15 Okay, do you want to depose Mr. Rhea?

16 MR. GAFFNEY: We want the opportunity, Your Honor.

17 MS. SADOWSKY: Yes.

18 JUDGE STEINBERG: Okay, Because, you know, in the  
19 normal course of events I just have them out in the hall,  
20 they come in, they testify, and that was it. But I gave the  
21 Bureau an extra couple of weeks, and in my opinion some of  
22 their -- well, I'm not going to say here. I think it's fair  
23 to let you depose these two people if you want them.

24 When we know something, somebody let me know.

25 MS. SADOWSKY: As soon as we --

1 MR. GAFFNEY: Promptly, Your Honor.

2 MS. SADOWSKY: Yes.

3 JUDGE STEINBERG: Of course, I wouldn't have any  
4 problem with -- for instance, if Mr. Rhea is deposed next  
5 week, you know, early in the week, let's haul him in and get  
6 his testimony. And then we can -- did I say Mr. Rhea? I  
7 meant Mr. Hanks.

8 MS. SADOWSKY: Mr. Hanks, yes.

9 JUDGE STEINBERG: Well, if Mr. Hanks is deposed  
10 next week, let's get him in here and get him to testify, and  
11 then we will deal with Mr. Rhea separately. You know, we  
12 don't have to do both of them at the same time.

13 So right now we have got a deposition scheduled  
14 for April 20th. Anybody have a calendar?

15 MR. ZAUNER: That's a Saturday.

16 MS. SADOWSKY: It's a Saturday.

17 MR. ZAUNER: We can do that on a Saturday.

18 MR. GAFFNEY: Again, we will -- hopefully, we will  
19 get the cooperation of his attorney to pick a convenient  
20 date.

21 JUDGE STEINBERG: I was wondering if we should  
22 pick a date for rebuttal, and that would --

23 MS. SADOWSKY: The testimony?

24 JUDGE STEINBERG: Yes, for the testimony, and that  
25 would -- call me and let me know what's been decided on the

1 date of the deposition, and get out a notice of deposition  
2 on Mr. Rhea, and --

3 MR. ZAUNER: And keep us informed too.

4 JUDGE STEINBERG: Yes, of course. They are not  
5 going to tell me anything they are not going to tell you.

6 MS. SADOWSKY: Do you know whether Mr. Rhea's  
7 address --

8 JUDGE STEINBERG: Let's go off the record.

9 (Discussion off the record.)

10 JUDGE STEINBERG: We're back on the record.

11 Basically, we're going to have rebuttal but we  
12 don't know when yet. As soon as we know something counsel  
13 will let me know, and then I will schedule the rebuttal  
14 session, or several.

15 Do you want to add anything, Mr. Zauner?

16 MR. ZAUNER: No, Your Honor.

17 JUDGE STEINBERG: Ms. Sadowsky?

18 MS. SADOWSKY: Nothing at this time.

19 JUDGE STEINBERG: Mr. Gaffney?

20 MR. GAFFNEY: No, Your Honor, because we had some  
21 discussion as to my objections to providing further  
22 information. I just want to state for the record that we do  
23 object to providing that further information. That's all.

24 JUDGE STEINBERG: Okay, that's fine. The  
25 objections are overruled.

1                   And then I -- there is no hurry to get it to me.

2    You know, whenever we have the rebuttal session, we can do  
3    it then.    Okay?

4                   Okay, so we will be in recess.

5                   (Whereupon, at 4:27 p.m, the hearing was recessed,  
6    to reconvene sine die.)

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**REPORTER'S CERTIFICATE**

**FCC DOCKET NO.:** 95-154

**CASE TITLE:** Contemporary Media, Inc., et al.

**HEARING DATE:** April 9, 1996

**LOCATION:** Washington, D. C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date:

4/9/96

Phil Raptis

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I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

Date:

4/18/96

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I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

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